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MCDERMOTT, WILL & EMERY

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FROM:

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Secretary: Constance Collins Direct Phone: 202-756-8659
Client/Matter/Tkpr: 38188-382 Date: _____ Time Sent: _____
Number of pages including this page: -3-

TO:

Name: Examiner K.H. Lee Facsimile No. 703-746-5543
Company: U.S. Patent & Trademark Office Contact No. _____

MESSAGE: Per your request, attached is the Request to Withdraw Finality. Please confirm safe receipt by return facsimile or telephone call to me or Constance Collins at the numbers listed above. Thank-you.

CERTIFICATION OF FACSIMILE TRANSMISSION

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Docket No.: 38188-382

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : **RESPONSE UNDER 37 CFR 1.116**
: **EXPEDITED PROCEDURE**
:
Alan K. GORENSTEIN :
:
Serial No.: 09/766,636 : Group Art Unit: 2162
:
Filed: January 23, 2001 : Examiner: K.H. Le
:
For: **SYSTEM AND METHOD FOR COMPOSITE CUSTOMER SEGMENTATION**

REQUEST TO WITHDRAW THE FINALITY OF OFFICE ACTION
DATED JULY 31, 2002

BOX AF
Commissioner for Patents
Washington, DC 20231

Sir:

The undersigned hereby requests that the finality of the Office Action, dated July 31, 2002, be withdrawn for the following reasons.

An Amendment was filed May 14, 2002, in response to the non-final Office Action of February 26, 2002. In that Amendment, claims 2 and 19 were amended, the application thereupon having claims 1 through 21 pending, with claims 1, 5, 16 and 18 being independent claims.

In the Office Action dated February 26, 2002, claims 2-4, 14, 15 and 19-21 were rejected under the second paragraph of 35 USC §112. Also, claims 1-21 were rejected under 35 USC §103 as unpatentable over two articles **Equifax** in view of **Data Mining**. In contrast, the Final Office Action of July 31, 2002 rejects claims 1-21 under 35 U.S.C. §102 as anticipated by a newly applied reference "**Bayesian Model Averaging**". Although claims 2 and 19 were

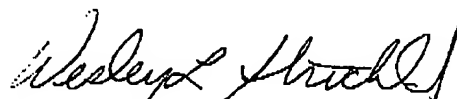
Appln. Serial No.: 09/766,636

amended in response to the rejection under 35 USC §112, claims 1, 3-18, 20 and 21 remained unchanged and in particular, independent claims 1, 5, 16 and 18 were not amended. Thus, claims 1, 3-8, 20 and 21 are rejected on a new ground that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.979(c). It is submitted, therefore, that the finality of the Office Action is premature (Please see MPEP 706.07(a); 706.07(d)). Withdrawal of the finality of the rejection and is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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